

Serial No.: 10/605,596
Confirmation No.: 2595
Applicant: FAGERGREN, Mats *et al.*
Atty. Ref.: 00173.0042.PCUS00

REMARKS:

REJECTION UNDER 35 U.S.C. § 112:

Claims 1-20 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Responsively, claim 1 has been amended to remedy the specific concerns indicated by the Examiner in the Office Action.

Applicant submits that the above amendments obviate the rejection of the claims under 35 U.S.C. §112, second paragraph and thus ask that the Examiner reconsider and withdraw the rejection of the claims and indicate their allowance in the next paper from the Office.

REJECTION UNDER 35 U.S.C. § 102:

Claims 1, 2, 7, 8, and 12-20 were rejected under 35 U.S.C. §102(b) as being anticipated by Wolfsried (US 5570937). Further, Claims 1-8 and 12-20 were rejected under 35 U.S.C. §102(e) as being anticipated by Frentz *et al.* DE 19911902 C1 of which US 6671604 is the English equivalent. In response, Applicant requests that the Examiner reconsider and withdraw the rejection in view of the following.

For there to be anticipation under 35 U.S.C. § 102, "each and every element" of the claimed invention must be found either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) and references cited therein. See also *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 1571, 230 U.S.P.Q. 81, 84 (Fed. Cir. 1986) ("absence from the reference of any claimed element negates anticipation."); *In re Schreiber*, 128 F.3d 1473, 1477, 44 U.S.P.Q.2d 1429, 1431 (Fed. Cir. 1997). As pointed out by the court, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). An anticipating reference

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must describe the patented subject matter with sufficient clarity and detail to establish that the subject matter existed and that its existence was recognized by persons of ordinary skill in the field of the invention. *ATD Crop. V. Lydall, Inc.*, 159 F.3d 534, 545, 48 U.S.P.Q. 2d 1321, 1328 (Fed. Cir. 1998). See also *In re Spada*, 911 F.2d 705, 708, 15 U.S.P.Q. 2d 1655, 1657 (Fed. Cir. 1990).

For better presentation, claims 17-20 have been rewritten into independent format as new claims 21-24, respectively.

Initially, it should be appreciated that US 5,570,937 relates to a method for reconditioning of brakes that is performed by applying the brake and a set of parameters is used in order to determine whether reconditioning is necessary. These parameters are the velocity of the vehicle and the speed of the windshield wipers. From these two parameters, a threshold value for time since the last brake application is decided. The Application time of the brake for reconditioning is also decided. US 6,671,604, corresponding to the cited document DE 19911902, relates to a method for deciding a compensation factor for compensating for loss of friction between stator and rotor in a brake. In column 5, line 36 and column 6, line 11 a method for reconditioning a brake is described.

Regarding claim 21, therein it is recited that the control system prioritizes brake power supplied by the service brake over brake power supplied by the auxiliary brake in order to provide sufficient energy for reconditioning. None of the cited documents suggest performing such prioritization and therefore claim 21 is not anticipated by any of the cited references. To prioritize the service brake results in more energy being introduced to the brake disc which makes reconditioning more effective and reduces the risk of glasing.

Regarding claim 22, therein it is recited that brake energy is supplied differently between a plurality of axles. None of the cited documents suggests application of the brake with force at different axles and therefore claim 22 is not anticipated by any of the cited references. To apply the brakes with different pressure at different axles results in more energy being introduced to the rotor/stator pair needing to be reconditioned, and which makes reconditioning more effective and reduces the risk of glasing.

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Regarding claim 23, therein it is recited that energy should be introduced within a temperature interval. None of the cited documents discuss the supply of energy for reconditioning within a temperature interval. Claim 23 is therefore not anticipated by any of the cited documents and therefore claim 23 is not anticipated by any of the cited references. To apply the brakes within a temperature interval in order to perform reconditioning makes reconditioning more effective and reduces the risk of glasing.

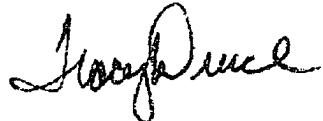
Claim 24 recites a method for reconditioning a friction pair that includes three different operating modes giving different priority to which brakes should be applied in order to effectively recondition the brakes. None of the cited documents discuss the use of different operating modes prioritizing the application of brakes differently and therefore claim 24 is not anticipated by any of the cited references.

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, Order No. 00173.0042.PCUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,



Tracy Druce
Patent Attorney
Reg. No. 35,493
Tel. 202.293.7333